

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY  
ORDINANCE COMMITTEE  
MINUTES OF PUBLIC MEETING**

DATE.....July 7, 2004  
TIME.....5:30 P.M.  
PLACE.....COUNTY  
OFFICE BLDG.  
20 N. 3RD STREET  
LAFAYETTE IN 47901

**MEMBERS PRESENT**

Steve Schreckengast  
Dr. Carl Griffin  
Gary Schroeder  
KD Benson  
Robert Bowman  
David Williams  
Mark Hermodson

**NON-VOTING MEMBERS**

Mike Smith

**STAFF PRESENT**

Sallie Fahey  
Margy Deverall  
Jay Seeger, Atty

KD Benson called the meeting to order.

**I. APPROVAL OF MINUTES**

Gary Schroeder moved to approve the minutes of the June 17, 2004 meeting. Carl Griffin seconded and the motion carried by voice vote.

**II. ALLOWING NBU ZONES IN UNINCORPORATED TOWNS**

Kathy Lind reviewed the current UZO wording regarding NBU zoning in unincorporated towns.

Sallie Fahey stated that the purpose of rethinking the current position on NBU in unincorporated towns is to prevent over-zoning and to create an impetus for additional development.

Kathy Lind went over the proposed additional wording to the current UZO section. She mentioned that she spoke last month with the Health Department, and both departments agreed that the "approval from the...Division of Sanitary Engineering, Indiana State Department of Health, on a lot-by-lot basis" wording should be included.

KD Benson inquired what the reasoning was behind including the State of Indiana in the UZO wording.

Kathy Lind replied that in the NBU district, land would be used for commercial purposes. All commercial use must have state approval on a septic system.

Steve Schreckengast asked what is the timetable and the process of receiving State approval for an NBU-zoned septic system.

Sallie Fahey stated that the petitioner needs to go to the State, have the drawings engineered by state-specific engineers, and submitted to the State Sanitary Engineering Department for approval. There is a separate section in the State Statute, which deals with commercial septic systems and a petitioner would have to follow those criteria.

Steve Schreckengast asked what downtown Stockwell is zoned.

Kathy Lind answered NB and some GB.

Sallie Fahey posed the example that if someone wants to do something with an old commercial building in an unincorporated town, which sits right at the sidewalk, than it does not comply in the NB zone.

Steve Schreckengast asked, for example, if NBU zoning were available to the Pizza King in Americus, would the staff support that zoning.

Sallie Fahey explained that if NBU zoning were available to that particular property, it could be expanded to free up some space for parking behind the building or a new septic system. They would also be allowed to have a fascia sign, which could come right to the street, and would not have needed the GB zoning to do so.

KD Benson asked if there was a population minimum for the unincorporated towns, noting that some of the smallest towns in Tippecanoe County were not included in the proposed wording.

Sallie Fahey replied that some of the towns KD Benson pointed out did not have storefront properties or commercial zones.

KD Benson asked if that was the criteria used by the staff to come up with the list of unincorporated towns.

Both Sallie Fahey and Kathy Lind answered affirmatively.

KD Benson stated that as new unincorporated towns emerge, the list can be amended.

Sallie Fahey agreed.

Carl Griffin mentioned that since there are no specifications on lot area, the section does not allow for capriciousness or whimsy; there are careful guidelines set forth by the County Health Department and State regulations.

Kathy Lind stated that it is not likely many of the restaurants in the unincorporated towns could develop, particularly because of the amount of water generated by restaurants.

KD Benson mentioned a hardware store or antique store would benefit from the amendment to the zoning language. She also voiced a concern regarding the wording: "septic system." She asked if it was possible that the wording could be changed to something less generic, as in "wetland treatment" or "innovative sewage system."

Sallie Fahey suggested "on-site sewage disposal" as the most generic term.

KD Benson suggested that perhaps there should be a distinction between "sewered lots" or "unsewered lots."

Sallie Fahey thought that the wording "served by an on-site sewage disposal system" should be used, as that is the term the Health Department uses.

Carl Griffin moved to edit the wording to include the more definitive term "served by an on-site sewage disposal system." Steve Schreckengast seconded and the motion was carried by voice vote.

Mark Hermodson moved that the proposed additional wording to the UZO regarding NBU in unincorporated towns should be moved to the Area Plan Commission. Robert Bowman seconded and the motion carried by voice vote.

### **III. CORRECTING AN OMISSION IN THE AIRPORT SECTION OF THE UZO**

Kathy Lind reviewed Section 5-3-4 Air Space Control, Height (c)(3) of the Unified Zoning Ordinance. She suggested that the term "airport control surface" should be replaced with "airport reference surfaces," on the grounds that the former is not defined, whereas the latter is. Kathy Lind suggested that the wording should be changed to include "airport reference surfaces."

Mark Hermodson moved to amend Section 5-3-4 as described above. The motion carried by voice vote.

Steve Schreckengast asked for a clarification on the definition of "site elevation."

Kathy Lind explained "site elevation" is the elevation of the property that is to be improved.

Steve Schreckengast asked if that can be the height of a tower or a building.

Sallie Fahey responded that, while difficult to explain, an "imaginary oval" must be pictured which encompasses the airport property and immediate surrounding areas, in addition to heights above the airport. There are many control surfaces involved: those that come out at angles from the sides of the runway, surfaces that come out from the end of the runway, etc. All of those surfaces dictate heights of things within so many nautical miles of the airport reference point, the airport's official elevation status. This part of the section controls property *not* on the airport site, which is controlled by the FAA, but *off* the airport site.

KD Benson mentioned that this UZO section dictates that one may not build, for example, a skyscraper on the landing pad.

Steve Schreckengast asked if the property surrounding the airport is controlled by the FAA.

Sallie Fahey replied that, no, the FAA only controls the airport. The Area Plan Commission controls land uses that could affect the airport. Without an ordinance section like 5-3-4 Air Space Control Height (c)(3), a skyscraper could be built on the landing pad. The FAA would only be authorized to shut down the airport; it is this zoning section that supports protection of the airport.

Steve Schreckengast said a cell tower case has come before the Board of Zoning Appeals that required FAA authority.

Sallie Fahey responded that when over 200 feet, a tower needs special lightning and a certificate from the FAA. She mentioned that cell tower companies tend to be cagey about their approval from the FAA, when, in fact, they do not have approval, since the FAA has no control over those towers, except regulating that they be lighted. She reiterated that the FAA's only authority is to shut down an airport if the FCC-controlled tower becomes a problem to the airport.

Mark Hermodson asked if this has changed in the last 20 years. He recalls that 20 years ago there was a request for a communications tower, which came before the Board of Zoning Appeals. The petitioner made the point that the width of the tower was not going to be a problem. The commissioner argued that the width was not the problem, but the height was.

Sallie Fahey concurred with the recollection and recapped the case.

Steve Schreckengast asked if the problems with the R1 zoning classifications with West Lafayette worked out.

Sallie Fahey responded staff is meeting Friday, July 09, 2004 at 10:30 with local government engineers and the developers group. She does not believe zoning classifications will be heard at the July 21, 2004 Area Plan Commission meeting.

KD Benson mentioned that Ordinance Committee meetings have been moved, officially, to the third Thursday of the month. Since the July 21, 2004 APC meeting agenda is particularly long, she suggested the Ordinance Committee meeting be cancelled.

Sallie Fahey agreed.

KD Benson said the Ordinance Committee meeting is cancelled for July 22, 2004.

**III. CITIZEN COMMENTS**

*None*

**IV. ADJOURNMENT**

KD Benson adjourned the meeting

Respectfully submitted,



Bianca Bullock  
Recording Secretary

Reviewed by,



Sallie Dell Fahey  
Executive Director